

SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. **General.** Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of \$100 per candidate in an election must file a report with the Commission according to this section.
2. **Definitions.** For purposes of this section, the following phrases are defined as follows:
 - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
 - B. "Expressly advocate" means any communication that uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!".
 - C. "Independent expenditure" has the same meaning as in Title 21-A §1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.
3. **Reporting Schedules.** Independent expenditures must be reported to the Commission in accordance with the following provisions:
 - A. Independent expenditures aggregating in excess of \$100 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following reporting schedule, unless required to be reported according to the schedule in paragraph B.
 - (1) **Quarterly Reports.** Quarterly reports must be filed by 5:00 p.m. on:
 - (a) January 15th and be complete as of January 5th;
 - (b) April 10th and be complete as of March 31st;
 - (c) July 15th and be complete as of July 5th; and
 - (d) October 10th and be complete as of September 30th.

- (2) **Pre-Election Report.** A report must be filed by 5:00 p.m. on the 14th day before the election is held and be complete as of that day.

If the total of independent expenditures made to support or oppose a candidate exceeds \$100, each subsequent amount spent to support or oppose the candidate must be reported as an independent expenditure according to the schedule in this paragraph or paragraph B.

- B. Independent expenditures aggregating in excess of \$250 per candidate made on or before September 6th must be reported by 5:00 p.m. on September 7th.

Independent expenditures aggregating in excess of \$250 per candidate made within the period starting on September 7th and ending on the 14th day before the general election must be reported within 48 hours of those expenditures, including on a weekend, holiday, or state government shutdown day.

[NOTE: THIS MEANS THAT WHEN THE CUMULATIVE AMOUNT OF EXPENDITURES TO SUPPORT OR OPPOSE A CANDIDATE EXCEEDS \$250, AN INDEPENDENT EXPENDITURE MUST BE FILED WITH THE COMMISSION WITHIN 48 HOURS OF GOING OVER THE \$250 THRESHOLD.

FOR EXAMPLE, IF AN INDIVIDUAL, ORGANIZATION OR COMMITTEE MAKES THREE EXPENDITURES OF \$100 IN SUPPORT OF A CANDIDATE ON SEPTEMBER 10TH, SEPTEMBER 15TH, AND OCTOBER 1ST, AN INDEPENDENT EXPENDITURE REPORT MUST BE FILED BY OCTOBER 3RD. THE THIRD EXPENDITURE OF \$100 MADE THE CUMULATIVE TOTAL OF EXPENDITURES EXCEED \$250 AND THE 48-HOUR REPORTING REQUIREMENT WAS TRIGGERED ON OCTOBER 1ST. THE REPORT MUST INCLUDE ALL THREE EXPENDITURES.

AFTER OCTOBER 1ST, IF THAT INDIVIDUAL, ORGANIZATION OR COMMITTEE MAKES ADDITIONAL EXPENDITURES TO SUPPORT THAT CANDIDATE, THE REQUIREMENT TO FILE AN INDEPENDENT EXPENDITURE REPORT WITHIN 48 HOURS WILL APPLY ONLY IF THE CUMULATIVE TOTAL SPENT AFTER OCTOBER 1ST EXCEEDS \$250. FOR EXAMPLE, IF THE INDIVIDUAL, ORGANIZATION OR COMMITTEE MAKES TWO PAYMENTS OF \$200 TO PROMOTE THE CANDIDATE ON OCTOBER 10TH AND OCTOBER 15TH, ANOTHER INDEPENDENT EXPENDITURE REPORT MUST BE FILED BY OCTOBER 17TH DISCLOSING THOSE TWO EXPENDITURES.]

Independent expenditures aggregating in excess of \$100 per candidate made after the 14th day before the general election must be reported

within 24 hours of those expenditures, including on a weekend, holiday, or state government shutdown day.

- C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate. Reports filed after the eighth day before an election must include the following information:
 - 1. the date on which the person making the expenditure placed the order with the vendor for the goods or services;
 - 2. the approximate date when the vendor began providing design or any other services in connection with the expenditure;
 - 3. the date on which the person making the expenditure first learned of the total amount of the expenditure; and
 - 4. a statement why the expenditure could not be reported by the eighth day before the election.
- D. A separate 24-Hour Report is not required for expenditures reported in an independent expenditure report.

- 4. **Multi-Candidate Expenditures.** When a person or organization is required to report an independent expenditure for a communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.

- A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the communication. If the approximate number of voters in each district who will receive the communication cannot be determined, the cost may be divided evenly among the districts in which voters are likely to receive the communication.

[NOTE: FOR EXAMPLE, IF CAMPAIGN LITERATURE NAMING SENATE CANDIDATE X AND HOUSE CANDIDATES Y AND Z ARE MAILED TO 10,000 VOTERS IN X'S DISTRICT AND 4,000 OF THOSE VOTERS RESIDE IN Y'S DISTRICT AND 6,000 OF THOSE VOTERS LIVE IN Z'S DISTRICT, THE ALLOCATION OF THE EXPENDITURE SHOULD BE REPORTED AS: 50% FOR X, 20% FOR Y, and 30% FOR Z.]

- B. If multiple county or legislative candidates are named or depicted in a communication, but voters in some of the candidates' electoral districts will not receive the communication, those candidates should not be included in the allocation.

[NOTE: FOR EXAMPLE, IF AN EXPENDITURE ON A LEGISLATIVE SCORECARD THAT NAMES 150 LEGISLATORS IS

DISTRIBUTED TO VOTERS WITHIN A TOWN IN WHICH ONLY ONE LEGISLATOR IS SEEKING RE-ELECTION, 100% OF THE COST SHOULD BE ALLOCATED TO THAT LEGISLATOR'S RACE.]

- C. If a candidate who has received matching funds because of a multi-candidate communication believes that he or she deserves additional matching funds because the communication disproportionately concerns his or her race, the Commission may grant additional matching funds in proportion to the relative treatment of the candidates in the communication.

- 5. **Rebuttable Presumption.** Under Title 21-A M.R.S.A. §1019-B(1)(B), an expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate in a race involving a Maine Clean Election Act candidate and that is disseminated during the 21 days before a primary election and 35 days before a general election will be presumed to be an independent expenditure, unless the person making the expenditure submits a written statement to the Commission within 48 hours of the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate.

- A. The following types of communications may be covered by the presumption if the specific communication satisfies the requirements of Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) Printed advertisements in newspapers and other media;
- (2) Television and radio advertisements;
- (3) Printed literature;
- (4) Recorded telephone messages;
- (5) Scripted telephone messages by live callers; and
- (6) Electronic communications.

This list is not exhaustive, and other types of communications may be covered by the presumption.

- B. The following types of communications and activities are not covered by the presumption, and will not be presumed to be independent expenditures under Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate, the candidate's immediate family, or a political committee;
- (2) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;

- (3) any communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;
 - (4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and
 - (5) other communications and activities that are excluded from the legal definition of “expenditure” in the Election Law.
- C. If an expenditure is covered by the presumption and is greater, in the aggregate, than \$100 per candidate per election, the person making the expenditure must file an independent expenditure report or a signed written statement that the expenditure was not made with the intent to influence the nomination, election or defeat of a candidate. The filing of independent expenditure reports should be made in accordance with the filing schedule in subsections 3(A) and 3(B) of this rule. Independent expenditures aggregating \$100 or less per candidate per election do not require the filing of an independent expenditure report or a rebuttal statement.
- D. If a committee or association distributes copies of printed literature to its affiliates or members, and the affiliates or members distribute the literature directly to voters, the applicable 21-day or 35-day period applies to the date on which the communication is disseminated directly to voters, rather than the date on which the committee or association distributes the literature to its affiliates or members.
- E. For the purposes of determining whether a communication is covered by the presumption, the date of dissemination is the date of the postmark, hand-delivery, or broadcast of the communication.
- F. An organization that has been supplied printed communications covered by the presumption and that distributes them to voters must report both its own distribution costs and the value of the materials it has distributed, unless the organization supplying the communications has already reported the costs of the materials to the Commission. If the actual costs of the communications cannot be determined, the organization distributing the communication to voters must report the estimated fair market value.
- G. If a person wishes to distribute a specific communication that appears to be covered by the presumption and the person believes that the communication is not intended to influence the nomination, election or defeat of a candidate, the person may submit the rebuttal statement to the Commission in advance of disseminating the communication for an early determination. The request must include the complete communication

and be specific as to when and to whom the communication will be disseminated.